

DEPARTMENT:	Planning and Economic Development
AGENDA DATE:	Introduction: May 8, 2012 Public Hearing: May 29, 2012
CONTACT PERSON/PHONE:	Michael McElroy, 541-4238, mcelroyms@elpasotexas.gov
DISTRICT(S) AFFECTED:	5

An Ordinance changing the zoning of Tracts 9A1, 9A1A and 9A2, Block 79, Section 32, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas from R-3 (Residential) to C-4 (Commercial). The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: South of Montana Avenue and West of Dominican Street. Property Owner: Acala Investments, LLC. PZRZ12-00001. **THIS IS AN APPEAL CASE** (District 5)

This item was heard before the City Plan Commission on March 8, 2012. The applicant requested an appeal on March 15, 2012. See attached report.

N/A

N/A

Development Coordinating Committee (DCC) – Denial Recommendation
City Plan Commission (CPC) – Denial Recommendation (4-1)

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DIRECTOR: Mathew McElroy
Deputy Director, Planning and Economic Development Department

APPROVED FOR AGENDA:

CITYMANAGER: _____ DATE: _____

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF TRACTS 9A1, 9A1A AND 9A2, BLOCK 79, SECTION 32, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-3 (RESIDENTIAL) TO C-4 (COMMERCIAL). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the zoning of *Tracts 9A1, 9A1A and 9A2, Block 79, Section 32, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas*, and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference, be changed from R-3 (RESIDENTIAL) to C-4 (COMMERCIAL), within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF EL PASO

ATTEST:

John F. Cook
Mayor

Richarda Duffy Momsen, City Clerk

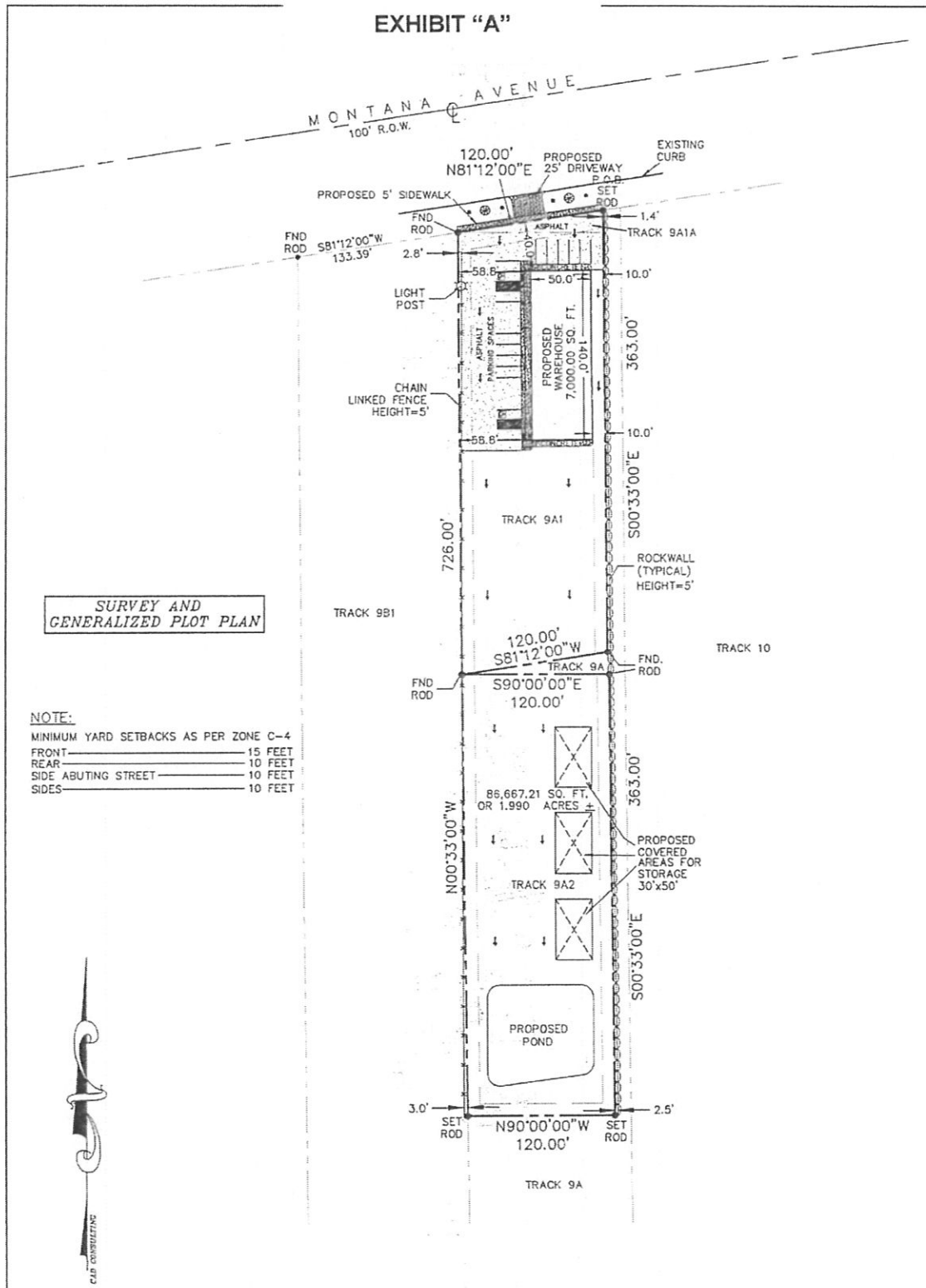
APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Lupe Cuellar
Assistant City Attorney

Mathew S. McElroy, Deputy Director
Planning and Economic Development
Department

EXHIBIT "A"



SCALE 1"=100'

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CERTIFICATION

I HEREBY CERTIFY THAT THE FOREGOING BOUNDARY SURVEY WAS MADE ON THE GROUND AND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN HEREON.

CARLOS M. JIMENEZ
 R.P.L.S. No. 39507

JOB # 11-3446 DATE: 12-08-11 FIELD: JM OFFICE: EA FILE: NET:\ENRIQUE\2011\11-3446

LOCATED IN ZONE C PANEL # 480214-0046-B DATED 10-15-82

RECORDED IN VOLUME N/A PAGE N/A, PLAT RECORDS, EL PASO COUNTY, TX

TRACTS 9A1, 9A1A AND 9A2, (SEE EXHIBIT "A")
 BLOCK 79, SECTION 32, TOWNSHIP 2
 TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS
 CITY OF EL PASO, EL PASO COUNTY, TEXAS

CAD CONSULTING COMPANY
 1790 LEE TREVINO DRIVE SUITE 503
 EL PASO, TEXAS 79936
 (915) 633-6422

12.00001

Being all of Tracts 9A1, 9A1A and 9A2,
Block 79, Section 32, Township 2,
Texas and Pacific Railway Company Surveys,
City of El Paso, El Paso County, Texas
December 08, 2012

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION

Exhibit "A"

FIELD NOTE DESCRIPTION of being all of Tracts 9A1, 9A1A and 9A2, Block 79, Section 32, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at a set iron rod located on the common boundary corner of Tracts 9A and 9A1A, same being the southerly right-of-way line of Montana Avenue (100' R.O.W.) and being the **POINT OF BEGINNING** of the herein described parcel;

THENCE, leaving said common boundary corner and southerly right-of-way line of Montana Avenue, South 00°33'00" East, a distance of 363.00 feet to a found iron rod for corner;

THENCE, South 81°12' 00" West, a distance of 120.00 feet to a found iron rod for corner;

THENCE, South 90°00' 00" East, a distance of 120.00 feet to a found iron rod for corner;

THENCE, South 00°33' 00" East, a distance of 363.00 feet to a set iron rod for corner;

THENCE, North 90°00' 00" West, a distance of 120.00 feet to a set iron rod for corner;

THENCE, North 00°33'00" West, a distance of 726.00 feet to a found iron rod for corner;

THENCE, North 81°12'00" East, a distance of 120.00 feet to the **POINT OF BEGINNING** of the herein described lot and containing 86,667.21 square feet or 1.990 Acres of land more or less.

Carlos M. Jimenez
Registered Professional Land Surveyor
Texas No. 3950

CAD CONSULTING COMPANY.
1790 Lee Trevino Suite # 503
El Paso, Texas 79936
(915) 633-6422

11-3446.wpd



APPEAL TO THE CITY COUNCIL

DATE: March 15, 2012

HONORABLE MAYOR AND CITY COUNCIL
CITY OF EL PASO, TEXAS

DEAR MAYOR AND COUNCIL:

After a public hearing held on March 8, 2012, the City Plan Commission denied my client's request for a change of zoning from R-3 to C-4 for a property located on Montana near Loop 375 to the east of 11900 Montana, (PZRZ12-00001) and legally described as:

Tracts 9A1, 9A1A and 9A2, Block 79, Section 32, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas

I hereby request the City Council to review the decision of the City Plan Commission AND CONSIDER MY REQUEST SET OUT ABOVE. I AM ATTACHING A LETTER SETTING FORTH MY REASONS FOR BELIEVING THEIR DECISION TO BE IN ERROR.

APPLICANT: Acala Investments, LLC
6044 Gateway Blvd East, Suite 904
El Paso, TX 79905

Representative Address Ray Mancera
6044 Gateway Blvd East, Suite 802
El Paso, TX 79905
(915) 532-2444
Ray@ManceraGroup.com

Sincerely,



RAY MANCERA

6044 Gateway Blvd East
Suite 802
El Paso, TX 79905

915-532-2444
ray@manceragroup.com
www.ManceraGroup.com

March 15, 2012

RE: Appeal CPC Decision for Rezoning Case PZRZ12-00001

The Honorable Mayor and City Council,

On behalf of Acala Investments, LLC, owners of a property located on Montana near Loop 375 (east and next to 11900 Montana). I am respectfully appealing the decision of the City Plan Commission (CPC).

On March 8, 2012 the CPC denied our request for a change of zoning from R-3 to C-4 in order to permit a contractor's yard.

We believe the CPC erred in acknowledging the existing of C-4 land uses near my client's property in addition to M-2 zoning! There are at least three C-4 uses nearby City Council approved on March 21, 2002, September 19, 2006 and as recently as June 4, 2011. **On two of these three cases the Development Coordinating Committee AND City Plan Commission recommended approval from R-3 to C-4 and Council concurred. On the third case DCC and CPC recommended denial from C-3 to C-4 but Council disagreed and approved the request.**

I visited this week the Texas Department of Transportation, since Montana is a State Highway, and their plans indeed call for Montana to be an important east west Major Corridor alleviating the pressure from I-10. **Where else but on these Major Corridors is where the City would want C-4 land uses and not on Minor Arterials or Residential Streets.** Our C-4 request is compatible with the surrounding land uses and in conformance with the City's Long Range Comprehensive Plan. The City offered C-1 and ironically the land uses permitted in this zoning, namely retail, would increase traffic volume versus a contractor's yard that may house five to seven trucks, creating less traffic!

The East Side Civic Neighborhood Association was notified but we did not receive a negative response from them. There were three people that spoke against the change that live in the Mobile Home Park next door. I promised to meet with them but their complaint was mostly about the traffic on Montana.

Sincerely,



Ray Mancera, Representative



**PLANNING AND ECONOMIC DEVELOPMENT
PLANNING DIVISION**

MEMORANDUM

DATE: 4-30-12

TO: The Honorable Mayor and City Council
Joyce Wilson, City Manager

FROM: Michael McElroy, Planner

SUBJECT: REZONING PZRZ12-00001

The City Plan Commission (CPC) on 03/08/2012 voted **4-1** to recommend **DENIAL** of rezoning the subject property to C-4 (Commercial), concurring with Staff's recommendation.

The CPC found that this rezoning is in not in conformance with The Plan for El Paso; and the proposed use is not in conformance with the Year 2025 Projected General Land Use Map. The CPC also determined that this rezoning does not protect the best interest, health, safety and welfare of the public in general; and that the proposed use is not compatible with adjacent land uses.

The applicant appealed this decision on March 15, 2012.

There were **THREE PHONE CALLS IN OPPOSITION** to this request.

Attachment: Staff Report



City of El Paso – City Plan Commission Staff Report

Case No: PZRZ12-00001
Application Type: Rezoning
CPC Hearing Date: March 8, 2012
Staff Planner: Michael McElroy, 915-541-4238, mcelroyms@elpasotexas.gov
Location: South of Montana Avenue and West of Dominican Street
Legal Description: Tracts 9A1, 9A1A and 9A2, Block 79, Section 32, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas
Acreage: 2 acres
Rep District: 5
Zoning: R-3 (Residential)
Existing Use: Vacant
Request: From R-3 (Residential) to C-4 (Commercial)
Proposed Use: Large contractor yard
Property Owner: Acala Investments, LLC
Representative: Ray Mancera

SURROUNDING ZONING AND LAND USE

North: Ft. Bliss / Vacant
South: RMH (Residential Mobile Home District) / Vacant
East: RMH (Residential Mobile Home District) / Mobiles Homes
West: C-4 (Commercial District) / Truck lot

Plan for El Paso Designation: East (Mixed Use)
Nearest Park: Hueco Mountain Park (1,693 ft.)
Nearest School: Jane A. Hambric Elementary (2,384 ft.)

NEIGHBORHOOD ASSOCIATIONS

Eastside Civic Association

NEIGHBORHOOD INPUT

Notices of the March 8, 2012 public hearing were mailed to all property owners within 300 feet of the subject property on February 13, 2012. The Planning Division received three phone calls in opposition to the rezoning and proposed use.

APPLICATION DESCRIPTION

The request is to change the zoning from R-3 (Residential) to C-4 (Commercial) to allow for a large contractor yard.

PLANNING AND ECONOMIC DEVELOPMENT-PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **denial** of C-4 (Commercial).

C-4 (Commercial) is incompatible with the adjacent residential uses to the immediate east (RMH), south (R-3) and west (R-3), particularly as it extends deeply into residential. In addition, the request is incompatible with the 2025 Projected Land Use Map which calls for mixed use. Furthermore, 20.10.010 requires legal access, of which Tract 9A2 does not have. "No lot or portion thereof shall be used or occupied unless such lot has frontage upon an accessway, except for agricultural uses associated with the conduct of a farm or ranch."

The Plan for El Paso-City-Wide Land Use Goals

All applications for rezoning shall demonstrate compliance with the following criteria:

- a. Goal: provide a pattern of commercial and office development which best serves community needs and which complements and serves all other land uses.
- b. Goal: encourage the provision of neighborhood commercial services which are compatible with a neighborhood's residential character.
- c. Goal: protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.
- d. Goal: preserve, protect, and enhance the integrity, economic vitality and livability of the City's neighborhoods.

The purpose of the C-4 district is to provide for locations for the most intensive commercial uses intended to serve the entire city. It is intended that the district regulations permit heavy commercial uses characterized by automotive and light warehousing. The regulations of the districts are intended to provide a transition from general business areas to industrial and manufacturing uses, and to accommodate major locations of commerce, service and employment activities. Within the central business district, more intensive commercial uses are allowed, the predominant of which are retail trade and service uses, providing less restrictive height and area regulations.

Development Coordinating Committee Review

The DCC reviewed and discussed the application for rezoning and offered no objections to Planning Staff's recommendation for **denial**.

Department of Transportation

Transportation recommends denial of the proposed rezoning request based on the following: 1. Montana is currently experiencing an average level of service (LOS) of F and exceeds capacity. The proposed zoning change would add to the delays experienced along Montana Avenue. 2. The uses within the C-4 (Commercial) zoning have the potential to generate trips in excess of 3,000 Average Daily Trips (ADT) and peak hour (PH) trips in excess of 300 trips. 3. A TIA is required in accordance with Section 20.04.380.G as the proposed zoning permits uses that have the potential to increase the traffic impact on adjacent traffic infrastructure. 4. Tracts 9-A-1-A and Tract 9-A-2 are currently landlocked and do not comply with Section 20.10.010.C (Legal Access Required). 5. Should the rezoning be approved, Transportation recommends a deceleration lane to remove heavy trucks from the path of travel along Montana. The proposed deceleration lane requires coordination and approval from TxDOT. The following comments are to be addressed at the time of development: 1. The parking spaces adjacent to Montana do not comply with the aisle width requirements for 90 degree angled parking. A minimum aisle width of 24ft. is required for 90 degree angled parking. 2. The proposed driveway poses potential hazards as it is not lined up with the existing median opening on Montana and drivers will attempt to cross against traffic in order drive westbound on Montana. 3. The driveway also poses potential hazards as the last parking space is directly in front of the driveway, thus potentially causing vehicle stacking on Montana. 4. Sidewalks shall be provided along Montana. Notes: 1. The property is located along the Montana Rapid Transit System (RTS) Corridor. Coordinate with Sun Metro regarding the location of bus stops and/or bus pull in bays. 2. Access and improvements to Montana shall be coordinated and approved by TxDOT. 3. All existing and/or proposed paths of travel (accessible sidewalks, wheelchair access curb ramps and driveways) within public rights-of-way shall be in accordance with the current City of El Paso Design Standards for Construction and shall be ADA/TAS compliant.

Land Development

ADA accessible Sidewalks, Wheel-chair ramp(s), and Driveway(s) will be required.* Grading plan and permit shall be required.* Storm Water Pollution Prevention Plan and/or permit required.* Drainage plans must be approved by the Engineering and Construction Management Department, Land Development Section.* Six ft. Rockwall is required abutting residential. The property shall be subject to On-Site Ponding. The Applicant shall coordinate with TxDOT for access and drainage on Montana. The Subdivision is within Flood Zone C-"Areas of minimal flooding" - Panel # 480214 0037B, dated October

15, 1982. * This requirement will be applied at the time of development.

Sun Metro

Sun Metro does not oppose this request.

Building Permits & Inspections

Recommend Approval

El Paso Water Utilities

1. EPWU does not object to this request.

EPWU-PSB Comments

Water

2. There is an existing twenty-four (24) inch diameter water main that extends along Montana Avenue fronting the northern boundary of the subject property. No direct service connections are allowed to this main as per the El Paso Water Utilities Public Service Board Rules and Regulations.

3. There is an existing twelve (12) inch diameter water main that extends along Montana Avenue fronting the northern boundary of the subject property. If tracts 9A1 & 9A1A and 9A2 are developed simultaneously, service will be available from this water main.

4. If tracts 9A1 & 9A1A and 9A2 are developed separately a water main extension will be required to serve Tract 9A2. This extension will be made at owner's expense.

Sanitary Sewer:

5. There is an existing 12-inch diameter sanitary sewer main at the south boundary of the subject property. If tracts 9A1 & 9A1A and 9A2 are developed simultaneously, service will be available from this sanitary sewer main.

6. If tracts 9A1 & 9A1A and 9A2 are developed separately a sanitary sewer main extension will be required to serve Tract 9A1 and 9A1A. This extension will be made at owner's expense.

General:

7. Application for new water and sanitary sewer services should be made 6 to 8 weeks prior to construction to ensure water for construction work. New service applications are available at 1154 Hawkins, 3rd Floor. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

CITY PLAN COMMISSION OPTIONS

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the change of zoning application:

1. Recommend approval of the application finding that the rezoning is in conformance with the review criteria of The Plan for El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan.
2. Recommend approval of the application with modifications to bring the rezoning into conformance with the review criteria in The Plan for El Paso as reflected in CPC report or other criteria from the Plan as identified by the CPC.
3. Deny the application finding that the rezoning does not conform to the review criteria in The Plan for El Paso as reflected in CPC report or other criteria identified from the Plan by the CPC.

Attachments

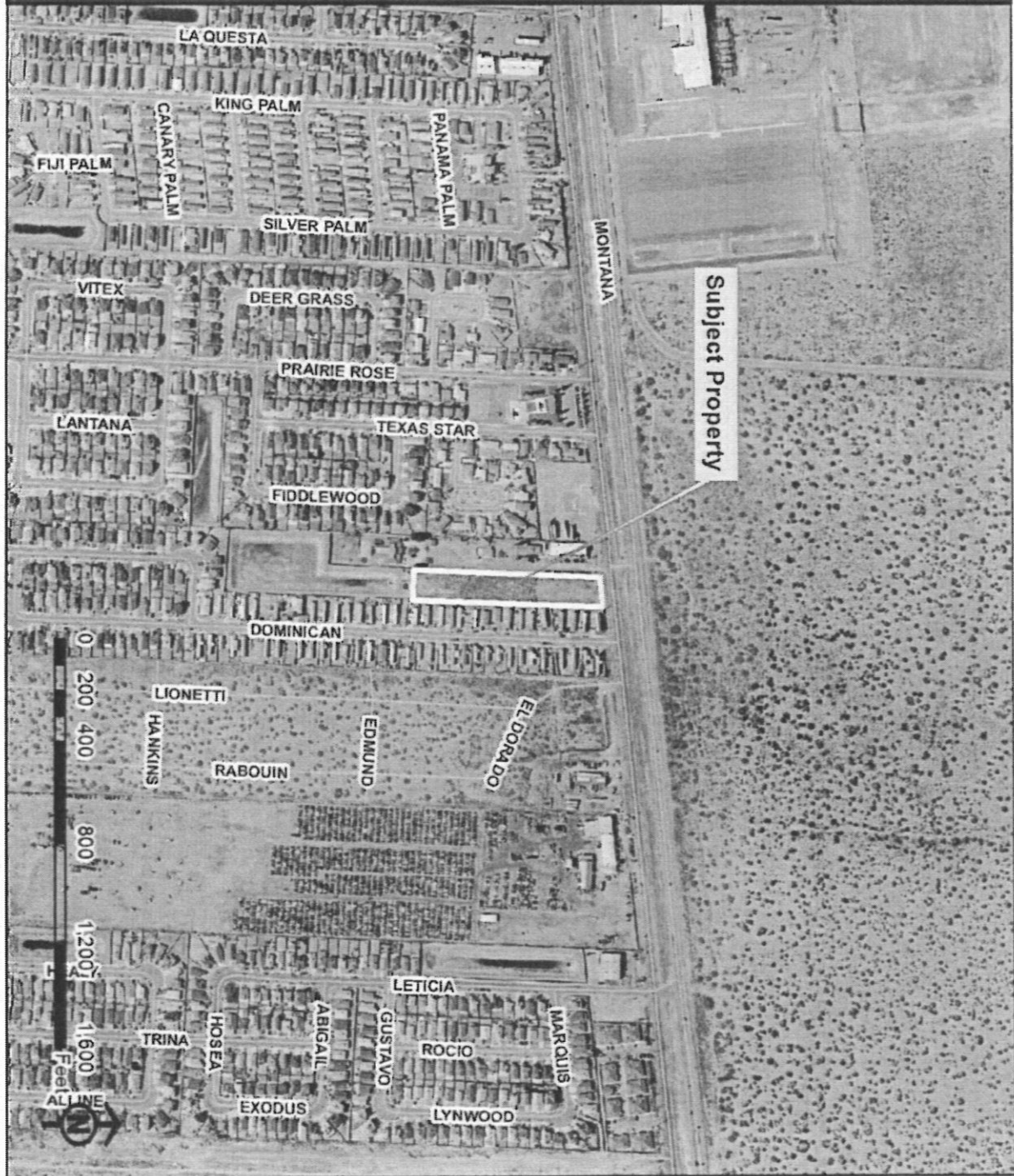
1. Zoning Map
2. Aerial Map
3. Conceptual Site Plan

PZRZ12-00001



ATTACHMENT 2: AERIAL MAP

PZRZ12-00001



ATTACHMENT 3: CONCEPTUAL SITE PLAN

